IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1002 of 2006 (S/S)

Birendra Pal Singh Bisht
S/o Sri Ram Singh Bisht,
R/o Village Dev Rampur, P.O. Shiv Rajpur,
Motadhak, Kotdwara,
District Pauri Garhwal.

……. Petitioner

Versus

1. The State of Uttaranchal
through Registrar,
Cooperative Societies, Dehradun.
2. The Chairman
Management Committee,
District Cooperative Bank Ltd.,
Garhwal Kotdwara, District Pauri Garhwal.
3. Secretary / General Manager
District Cooperative Bank Ltd.,
Garhwal Kotdwara, District Pauri Garhwal.

…….. Respondents

Mr. G.S. Negi, learned counsel for the petitioner.
Mr. Harendra Belwal, learned Brief Holder for the State.
Mr. Alok Mehra, Advocate holding brief of Mr. Manoj Tiwari, learned counsel respondent Nos. 2 and 3.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) By means of this writ petition, moved under Article 226 of the Constitution of India, the petitioner has challenged the impugned transfer order dated 31.05.2006, passed by respondent No. 3 Secretary / General Manager of District Co-operative Bank Ltd., Garhwal, Kotdwara. By

said order the petitioner has been transferred from the main Branch at Kotdwara to Branch office Pauri.

3) Learned counsel for the petitioner argued that the Committee of Management of the Bank is the appointing authority, and as such, Secretary of the Co-operative Bank Ltd. was not authorized to transfer the petitioner from Kotdwara to Pauri. In this connection, on behalf of the petitioner, a Division Bench Judgment of Allahabad High Court in ***Om Prakash Walia Vs. Registrar, Co-operative Societies, U.P. Lucknow and others; reported in 1987 UPLBEC pg. 621,*** is relied upon. In para 4 of said judgment, it has been held that the power to appoint Section Officer vests with the Committee of Management of the Co-operative Society, and merely for the reason that the Secretary has signed the letter of appointment, it cannot be said that he is the appointing authority. It is further observed in the same judgment that the Secretary, as such, cannot transfer a Section Officer. In the opinion of this Court, the aforementioned case law doesn't help the petitioner, in the present case, firstly, for the reason that the petitioner is a Junior Clerk not a Section Officer. Secondly, Supplementary counter affidavit filed on behalf of respondent Nos. 2 and 3, in this writ petition, clearly shows that the Committee of Management has taken a policy decision to transfer the employees working for a long period in a particular Branch. In para 7 of the counter affidavit, it has been stated that the Secretary / General Manager is the Chief Executive Officer of the District Co-operative Bank Ltd., and while issuing the impugned transfer order the same was passed, after obtaining prior

approval from the Chairman of the Committee of Management of the Bank. Averments made in para 7 of the counter affidavit read with copy of resolution dated 27.03.2006, passed by Committee of Management (copy of which is annexed to the supplementary counter affidavit) makes it amply clear that the Secretary has issued the impugned transfer order in pursuance of the decision of the Committee of Management of the Bank, as such, it cannot be said that the Secretary at his own motion has transferred the petitioner.

4) Therefore, the petition is devoid of merits, and is liable to be, dismissed. The writ petition is dismissed. Interim order dated 21.07.2006, is hereby, vacated (All pending applications in this Petition also stand disposed of).

(Prafulla C. Pant, J.)

Dt. : November 29, 2006
H.Negi